

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

MICHELLE FISCUS, M.D., FAAP,)	
)	
Plaintiff,)	
)	No. 3:21-cv-00686
v.)	
)	Chief Judge Crenshaw
COMMISSIONER LISA PIERCEY, M.D.,)	
MBA, FAAP, Tennessee Department of Health,)	
in her official and individual capacities;)	
CHIEF MEDICAL OFFICER TIM JONES,)	
M.D., Tennessee Department of Health,)	
in his official and individual capacities,)	
)	
Defendants.)	

DEFENDANTS' JOINT MOTION FOR JUDGMENT ON THE PLEADINGS

Defendants Commissioner Lisa Piercy, M.D., MBA, FAAP and Chief Medical Officer Tim Jones, M.D., in their official and individual capacities, move for judgment on the pleadings under Fed. R. Civ. P. 12(c). Even according to the facts alleged by Plaintiff, she fails to state a claim upon which relief can be granted. There was no deprivation of her liberty interest in reputation, and thus she was not entitled to a name-clearing hearing. In addition, in their individual capacities, Defendants have qualified immunity because there was no violation of a constitutional right and their actions were reasonable in light of the clearly established law. Defendants are entitled to judgment as a matter of law.

Defendants do not waive and maintain, as stated in their Answer, that they have not been properly served in their official capacities and there is insufficient service of process against them

in their official capacities, as set forth in Fed. R. Civ. P. 12(b)(5). The summons were issued and served to them at the Department of Health address. (*See* Doc. 7.)

Defendants attach as Exhibit 1 a letter referred to in the Complaint and central to the claims contained therein.¹ (Compl., Doc. 1, PageID # 7–10, ¶¶ 30–42.) They also contemporaneously file a memorandum of law in support of this motion.

CONCLUSION

Defendants respectfully request that the Court grant judgment on the pleadings in their favor.

Respectfully Submitted,

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Attorney General and Reporter

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¹ Documents that are “referred to in the Complaint and are central to the claims contained therein” may be considered without converting this motion to one for summary judgment. *See Bassett v. Nat'l Collegiate Ass'n*, 528 F.3d 426, 430 (6th Cir. 2008).

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of this Joint Motion For Judgment on the Pleadings has been served through the e-filing system and sent by e-mail on October 7, 2021, to:

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